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Victims of Crime

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VICTIMS OF CRIME

Victims of Crime

Navigating the court system can be intimidating for any lay person. When you add a traumatic experience and a court trial in the mix, victims can suffer. In the 1970s, the focus on victims increased due to grassroot activists, the Women's Rights Movement, and a collaborative effort by survivors (Young & Stein, 2004). Ten years later, the Crime Victims' Movement led to the founding of many organizations that would later on have a significant impact on victim rights. A few of those organizations include the National Center for Victims of Crime, the Victims' Assistance Legal Organization (VALOR), and the National Center for Missing and Exploited Children (Young & Stein, 2004). It goes without saying that many victims suffered, and it is from these tragedies those organizations were founded. Fast forward to today's society and victims are still suffering. In order for society to move forward, it is important to have a firm grasp on the past and present-day operations of victim work.

Under federal law, a crime victim is defined as someone who has suffered physical, emotional, or financial harm directly from the acts of a crime (Federal Bureau of Investigations, n.d.). In order to alleviate the harm and damage occurred by victims, they are allotted certain rights under the Victims' Rights and Restitution Act (VRRRA). These rights include protection from the accused, notice of court proceedings, restitution, heard and included during court proceedings, and informed of social services and medical services if necessary. It is the goal of the victim advocate to ensure all of the rights are established. This paper will explore victims' rights in further detail, who utilizes victim services, what programs are most popular, and how victim advocates work alongside victims to help them regain a positive identity.

During the 1960s, five distinct developments led to the crime victims' movement in the U.S. which include victimology, victim compensation programs, the women's movement, rise of

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crime, and the growth of victim activism (Young & Stein, 2004). According to Young and Stein, victimology became a proposed theory to understand and explain the relationships, actions, and emotions of a victim and criminal behavior. Schafer (1968) completed a study with the U.S. Department of Health, Education, and Welfare that first introduced victimology in the U.S. and brought awareness to the growing crime rate. In 1966, the first national victimization survey was conducted through the President's Commission on Law Enforcement and the Administration of Justice (Young & Stein, 2004). Even at the beginning, victimization surveys showed disparities in victimization rates and law enforcement records due to distrust of the system. This newfound information was labeled as "victim disillusionment" and encouraged scholars to research the field further.

England was one of the first countries to study victimology, which led them to implement the first victim compensation fund in 1963 (Young & Stein, 2004). After New Zealand and Great Britain implemented victim compensation funds, the state of California was the first in the U.S. to follow suit (Young & Stein, 2004). Margery Fry is credited for pursuing states to provide financial reimbursements for losses or damages associated with being a victim of crime (Young & Stein, 2004). However, by 1979 the welfare narrative switched to a justice format. Twenty-eight states accepted the idea that victims are deserving of reimbursement even if they were not experiencing financial hardships (Young & Stein, 2004).

In 1972, the first two rape crisis centers opened in Washington, D.C. and San Francisco. These facilities were a direct response of the women's movement where victims of rape and domestic violence were recognized as "a women's lack of status, power, and influence" (Young & Stein, 2004, p. 2). Three major conclusions were discovered after the rape crisis centers were established. First, emotional crisis is a response to the crime committed. Second, practical skills

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to rebuild one's life were determined without the influence of law enforcement, and third, volunteers always step up when there is a lack of resources (Young & Stein, 2004).

Dr. Martin Symonds, the Director of Psychological Services for the New York Police Department who specialized in trauma, found three specific commonalities between victims, which are:

the pattern of responses from victims of trauma was similar regardless of the type of crime, the principles of good crisis intervention are also similar, and law enforcement officers are in the position of doing the most harm or the most good in responding to victims. (1980, p. 3)

Throughout the late 1970's and early 1980's, victim activism continued to grow and overcome obstacles such as the loss of federal funding by the Law Enforcement Assistance Administration (Young & Stein, 2004). States stepped up to provide funding for victim assistance programs and soon after, Wisconsin was the first state to pass a Victims' Bill of rights in 1980 (Young & Stein, 2004). Throughout the next 30 years more organizations were founded to catalyze the victims' rights movement, a few examples include the Victims of Crime Act of 1984 (VOCA), Presidential Task Force on Victims of Crime, National Center for Victims of Crime, and the Victims Assistance Legal Organization (Valor) (Young & Stein, 2004). The federal Victims' Rights and Restitution Act (VRRRA) as well as the Crime Victims' Rights Act (CVRA) are a result of the aforementioned organizations and victims' movement (Young & Stein, 2004).

Under federal law a victim of crime is defined as a person who has endured either physical, emotional, or financial harm from a criminal act (Federal Bureau of Investigations, n.d.). Under this definition only a victim is awarded the rights outlined in each act.¹ Even with

¹ To view the full list of victims' rights, visit <https://www.fbi.gov/resources/victim-services/rights-of-federal-crime-victims>

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these rights established, Boateng and Abess (2017) argued there is a lack of implementation and accountability to ensure all rights are being met. In their report, the very first example is the injustice of the Brock Turner rape case. While no names were mentioned, it can be assumed that this is the case being referred to based on the details provided in the report that include California, a 6-month jail sentence, an intoxicated college woman, and the date, 2016. This example is a statement by Boateng and Abess to evoke emotion and gain support for their argument by using a widely controversial and highly advertised case, where no mention of the victim was ever present throughout media coverage.

Additionally, Boateng and Abess (2017) analyzed the differences between each state's victims' bills of rights to determine inconsistencies throughout. Ten individual rights were compared for each state and D.C.; these include being present, compensation, being heard, being informed, fair treatment, protection, restitution, return of property, speedy trial, and to confer with prosecution. According to their data, not even one right was afforded to all victims residing in different states. The right to be informed is most common with forty-eight states providing this right to victims of crime. The right to be present at all stages of the trial is only practiced in forty-four states out of fifty-one including Washington D.C. The least common right practiced by the states is the right to a speedy trial, only twenty-one states offer this right to victims. Twenty-two states provide the right to return property and confer with the prosecution. The remaining five rights fall in between thirty-two and forty-three participating states.

The lack of uniformity presents significant challenges and creates the idea of unequal justice in the field. Boateng and Abess (2017) addressed the lack of disciplinary actions and accountability of the state when a victim is not guaranteed their full rights. Because of this, a victim cannot pursue legal actions to ensure their rights were completely met. Since officials are

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not held accountable by the law, they have no duty to enforce victims' rights. Boateng and Abess address the idea that not all victims are entitled to compensation for their hardships, because only forty-three states practice this right. The requirements vary state to state to determine a victim's eligibility of compensation. In Arizona and Alaska, it is up to a board of officials to use their discretion in determining if the victim cooperated with law enforcement and prosecution appropriately to qualify for compensation.

Not only is there a difference in rights afforded to victims, but the definition of a victim varies from jurisdiction to jurisdiction. The lack of consistency makes an overwhelming process that much more intense and complicated for a victim who may be seeking information. Disparities like this promote unfair justice, which is the exact opposite of the meaning behind the victims' rights movement. The narrative of victims' rights might have changed from a welfare perspective to a justice perspective but looking at the data, one may not think that.

One victims' right that is not consistent throughout states is the right to be heard (Englebrecht, 2011). Victims have the right to speak up in court and express how they have been affected by the crime, which is referred to as the victim impact statement (Englebrecht, 2011). In 1991, the Supreme Court ruled that victim impact statements are admissible in capital cases, but not required (Englebrecht, 2011). Therefore, each state can choose whether or not a victim impact statement is admissible. Boateng and Abess (2017), reported that only thirty-seven states afford the right to be heard under certain conditions. The states that do not allow victims' voices to be heard include Arkansas, California, Connecticut, Delaware, D.C., Hawaii, Illinois, Iowa, Maine, Missouri, New York, and South Dakota; it should be noted Vermont was omitted from the list (Boateng & Abess, 2017). One argument against victim impact statements is they are prejudice and could potentially increase the severity of a sentence (Englebrecht, 2011). After

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analyzing multiple studies, Englebrecht concluded if a victim is present in the court process and speaks about their hardships, the punishment is more severe.

Proppen and Schuster (2010) found through a qualitative analysis of victim statements, that an effective statement should focus on the punishment and sentence terms for the offender. Punishment ranges from prison time to community services and in terms of treatment, the victim's statement could address whether treatment options would be appropriate for the offender. Overall, it is important that victim impact statements say what the judge wants to hear; this can be accomplished when the victim "appeal[s] to fairness and justice, stress[es] public and personal safety, and offer[s] appraisals of rehabilitation potential" (Proppen & Schuster, 2010, p. 28).

Bejnariu et al. (2018) discussed the importance of a victim being present and partaking in their right to be heard during a court protection order. It is important to establish who all the participants are and their roles in the courtroom. A judge will always be present to decide the appropriateness and need for a protection order and usually each party will be represented by an attorney. A victim might also have a victims' advocate, family members, and friends who show up to support them. Bejnariu et al. completed a study looking at the rate protection orders were granted compared to who was present in the courtroom. The study concluded two main factors influence the judge's decision; 1) the severity of the case; and 2) the presence or lack of victim representation. This can become problematic, because not every victim has the privilege of support.

Camacho and Alarid (2008) eloquently explained the range of emotions victims may experience when seeking help. The process can be complex, and the feelings are vast among victims. It is not uncommon to be frustrated and fearful of the process. Luckily, the creation of

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specialized services and victim advocates have eased victim's fears. According to Camacho and Alarid "prosecution-based advocates assist in gathering evidence, taking victim impact statements, and providing support..." (2008, p. 289). Based on secondary analysis conducted by Camacho and Alarid, the significant role victim advocates play in the lives of victims while navigating the court procedures is clear. Victim advocates are ranked as the second most important and influential people, after friends and family (Erez & Belknap, 1998). Advocacy services highly influence victim cooperation and in turn help build a case for prosecution (Henning & Feder, 2005). However, victims of crime who live in a rural communities lack available resources and are at a disadvantage (McGrath et al., 2012). McGrath et al. (2012) apply the ecological model to rural victims and advocates in order to explain the difficulties and disadvantages rural communities face. Even though the ecological model, introduced by Bronfenbrenner in 1979, was based in psychology it can easily be applied to criminology. Bronfenbrenner discussed the environment and what is needed for people to succeed, which in turn can be applied to victimology and victims' needs in order to overcome the many challenges they may face. McGrath et al. focused on two primary categories of the ecological model which included the macrosystem and the ecosystem. Rural communities suffer from victim blaming, lack of privacy, conservative and patriarchal values, along with poverty all of which are included in the macrosystem. Unemployment, poverty, and female households are variables within the macrosystem that affect the demands of the ecosystem. The ecosystem is composed of social services, health services, and the justice system. Considering each factor of the macrosystem and ecosystems, Bronfenbrenner's ecological model creates a strong relationship between the lack of resources available in rural communities leading to disadvantaged victims who lack appropriate support.

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The lack of evaluation standards for a range of victim services is complicated, when considering the effectiveness rate and needs of victims. Because social services and victim resources are largely reliant on government funding, the need for evaluation standards is essential when determining appropriate funding and budgeting for following years (Bennett et al., 2004, Campbell & Martin, 2001). Evaluation processes of victim services is not widely accepted due to fear and lack of privacy for victims (Bennett et al., 2004). Another hinderance is the lack of resources and support in order to conduct evaluations (Bennett et. al., 2004). Fortunately, the Domestic Abuse Project along with private researchers have compiled tools and created a guide for small and local shelters to use (Bennett et. al., 2004). This is positive news for shelters that rely heavily on government and private funding who require evaluations to measure the effectiveness of the programs.

A counter argument to the perspective of the research previously discussed within this paper is explored by McDermott and Garofalo (2004), which they call “victim disempowerment.” In their research, they identified seven scenarios that can lead victims to feeling as if they have no control or voice in their recovery. In general, the scenarios include arrogant members of law enforcement and therapists, mandatory arrests, and unwanted intrusion or lack of privacy. Similarly, Harwood (2019) reported on the possibility of victims’ rights going too far. He explained that there is a general belief that victims should be afforded more rights than offenders; however, when that occurs, due process is compromised. An example would be victims having the right to be heard in court leading to prejudice and compromising a fair trial.

Victims of crime research is usually performed by self-reporting, interviews, and surveys. Each of these methods have similar limitations which include possible biases and the question of validity (Maxfield & Babbie, 2015). These research methods allow for interpretation by the

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individual, which could lead to faulty or misconstrued data. Self-reporting can be inconclusive if the information is not filled out correctly. Both of these factors are threats to the validity and reliability of the current studies while also playing a role in the generalizability of future research. While interview questions and surveys are easily replicated, it is important to emphasize the role each individual respondent plays in the research. Unfortunately, crime data and victims of crime research is somewhat unreliable due to the persistent issue of the dark figure of crime. Overall, there is a lack of uniformity, objective research methods and evidence that tracks the performance of victim services and victim relations. In turn, this makes it difficult to generalize the effectiveness of victim services and whether victims' rights laws are performing adequately.

In conclusion, victims' rights have come a long way in the United States, but more still needs to be accomplished. The lack of available resources in rural communities, state disparities, and lack of evaluation processes create unequal justice for victims of crime. Research should be expanded to include victim perspectives while still protecting their privacy. Lastly, it is essential for victims and offenders to be afforded their complete rights, despite any criticism. .

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